

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

JANE DOE, individually and)	CIVIL NO. 11-00550 KSC
as Next Friend of JOHN ROE,)	
a minor; RICHARD ROE 1,)	ORDER GRANTING
Individually and on behalf)	CONSOLIDATED PLAINTIFFS'
of JANE ROE 1, a minor;)	JOINT MOTION TO CERTIFY
RICHARD ROE 2 AND MRS.)	CLASS, APPROVE NOTICE OF
RICHARD ROE 2, Individually)	PROPOSED SETTLEMENT AND TO
and on behalf of JANE ROE)	SET HEARING DATE FOR
2, a minor; all)	APPROVAL OF SETTLEMENT
Individually and on behalf)	
of a class of persons)	
similarly situated,)	
)	
Plaintiffs,)	
)	
vs.)	
)	
STATE OF HAWAII; SCOTT)	
O'NEAL; SYDNEY DICKERSON;)	
JOHN DOES 1-10; ENTITIES 1-)	
10,)	
)	
Defendants.)	
_____)	

ORDER GRANTING CONSOLIDATED PLAINTIFFS' JOINT MOTION TO
CERTIFY CLASS, APPROVE NOTICE OF PROPOSED SETTLEMENT
AND TO SET HEARING DATE FOR APPROVAL OF SETTLEMENT

Before the Court is the Consolidated
Plaintiffs' Joint Motion to Certify Class, Approve
Notice of Proposed Settlement and to Set Hearing Date
for Approval of Settlement ("Motion"), filed February
1, 2013. All parties joined in the Motion. This

matter came on for hearing on February 19, 2013. Glenn Uesugi, Esq., appeared on behalf of Plaintiffs; Eric Seitz, Esq., appeared on behalf of Intervenor Plaintiffs and Third Party Defendant Roxsanne Tomita; Christopher Bouslog, Esq., appeared on behalf of Intervenor Plaintiffs; Deputy Attorneys General John Molay and Dennis Ferm appeared on behalf of Defendant State of Hawaii; Jordon Kimura, Esq., appeared on behalf of Defendant Scott O'Neal; and Deputy Attorney General C. Bryan Fitzgerald appeared on behalf of Defendant Sydney Dickerson in her individual capacity.

After careful consideration of the Motion, the Joinders, and the applicable law, the Court GRANTS the Motion and finds and orders as follows:

1. The requirements of Federal Rule of Civil Procedure ("FRCP") 23(a) and (b) are met in this action. The Court finds specifically that the questions of law and fact common to members of the class predominate over any questions affecting only individual members. A class action is superior to other available methods for a fair and efficient adjudication of the controversy.
2. The class is defined as any student who is or was enrolled in the Hawaii School for the Deaf and Blind or the Hawaii Center for the Deaf and Blind, between August 10, 2001, and the date of approval

of this Settlement Agreement by the District Court, and who suffered injury as a result of one of the following:

- A sexual assault on the school grounds or on a school bus or a coerced sexual encounter on the school grounds or on a school bus involving another student or students;
 - A sexual encounter involving a staff member; or
 - Witnessing a sexual assault or a coerced sexual encounter involving another student on the school grounds or on the school bus or a sexual encounter involving a staff member and a student.
3. The Court hereby appoints Michael Green, John Rapp, Glenn Uesugi, Eric Seitz, and Christopher Bouslog as class counsel. These attorneys have adequate experience in handling class actions and other complex litigation and have knowledge of the applicable law. With numerous attorneys and their support staff available, said counsel have the resources sufficient to commit to representing the class.
 4. The Court hereby appoints Riki May Amano as Claims Administrator.
 5. The Court determines that the notice can most reasonably be provided via U.S. mail, and via publication in the Honolulu Star Advertiser. Notice shall be mailed by **March 8, 2013**, and shall be published once for 4 successive weeks, to commence on or before **February 25, 2013**.
 6. The Court hereby approves the notice in the form attached to the Motion as Exhibit A, though it shall be modified prior to dissemination to include the following dates:
 - the settlement hearing will take place on **April 22,**

2013 at 9:30 a.m. before U.S. Magistrate Judge Kevin S.C. Chang;

- the "opt out" date is **April 5, 2013**;
 - written notice of objections to any aspect of the settlement, including attorneys' fees and costs, is due by **April 5, 2013**.
7. Any member of the class may enter an appearance in the lawsuit through a lawyer of his or her own choice if the member so desires.
 8. Any member of the class may elect to exclude himself or herself from the class by filing a Notice stating that he or she elects to be excluded from the class with the clerk, United States District Court, 300 Ala Moana Boulevard, Room C-338, Honolulu, Hawaii 96850-0338 and by mailing a copy to the attorneys for Plaintiffs and Defendants. Any person desiring to be excluded as a member of the class must file the notice with the Court on or before **April 5, 2013**.
 9. Class members who do not elect to be excluded from the class will be bound by any judgment or order entered by the Court.
 10. At this stage, the Court finds as a preliminary matter that the proposed settlement is fair, reasonable, and adequate. A final hearing concerning the fairness of the settlement and the Plaintiffs' counsel's request for attorneys' fees and costs is scheduled for **April 22, 2013, at 9:30 a.m.** At that time, class members who timely submitted written notices of objection to the settlement and/or the attorneys' fees and costs shall have an opportunity to express their views concerning the settlement and the request for attorney's fees and costs, and the Court shall make its final rulings regarding the fairness and appropriateness thereof.

11. Pursuant to FRCP 23(h)(3), the Court preliminarily finds that the requested attorneys' fees are fair and reasonable. The attorneys have produced a substantial settlement fund. A percentage fee of said amount as requested is fair and reasonable. Plaintiffs' counsel shall submit their application for attorneys' fees and costs in accordance with FRCP 23(h) and Local Rule 54.3 by **March 22, 2013**. The parties have agreed that the application may be presented in simplified form.

IT IS SO ORDERED.

DATED: Honolulu, Hawaii, February 19, 2013.




Kevin S.C. Chang
United States Magistrate Judge

Civil No. 11-00550 KSC; Doe, et al. v. State of Hawaii, et al.; ORDER GRANTING CONSOLIDATED PLAINTIFFS' JOINT MOTION TO CERTIFY CLASS, APPROVE NOTICE OF PROPOSED SETTLEMENT AND TO SET HEARING DATE FOR APPROVAL OF SETTLEMENT